

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, *et ano.*,

Defendants.

Case No. 21 Civ. 462 (JPO)

**STIPULATION AND [PROPOSED]  
CONSENT ORDER FURTHER  
STAYING THE PROCEEDING**

WHEREAS, on or about January 19, 2021, the State of New York, State of California, State of Connecticut, State of Delaware, State of Illinois, State of Maine, State of Maryland, Commonwealth of Massachusetts, People of the State of Michigan, State of Minnesota, State of New Jersey, State of New Mexico, State of North Carolina, State of Oregon, Commonwealth of Pennsylvania, State of Vermont, State of Washington, State of Wisconsin, King County Washington, City of Chicago, and City of New York (collectively, “Plaintiffs”) filed a complaint in the above-captioned matter (the “Complaint”) against the United States Environmental Protection Agency and Michael S. Regan, as Administrator of the United States Environmental Protection Agency<sup>1</sup> (collectively, “Defendants” or “EPA”);

WHEREAS, the Complaint seeks, *inter alia*, a declaration that the final rule entitled “Strengthening Transparency in Pivotal Science Underlying Significant Regulatory Actions and Influential Scientific Information,” 86 Fed. Reg. 469 (Jan. 6, 2021) (“Final Rule”), is in excess of

---

<sup>1</sup> Administrator Michael S. Regan is automatically substituted in place of former Administrator Andrew R. Wheeler pursuant to Fed. R. Civ. P. 25(d).

EPA’s statutory jurisdiction, authority, or limitations; is not in accordance with law; and is arbitrary and capricious; and vacatur of the Final Rule;

WHEREAS, on February 1, 2021, the United States District Court for the District of Montana ordered that the “Final Rule is hereby vacated and remanded to the Environmental Protection Agency,” *Env’tl Def. Fund v. U.S. EPA*, No. 4:21-cv-00003-BMM, Docket No. 38 (D. Mont. Feb. 1, 2021), at 2 (the “Montana Order”);

WHEREAS, EPA is evaluating appropriate next steps in light of the Montana Order with respect to the above-captioned action, which raises similar claims and seeks substantially the same relief;

WHEREAS, on February 25, 2021, this Court entered a Stipulation and Consent Order Staying the Proceeding for sixty days until April 26, 2021, Dkt. No. 29;

WHEREAS, on April 7, 2021, EPA submitted a proposed final rule entitled “Strengthening Transparency in Pivotal Science Underlying Significant Regulatory Actions and Influential Scientific Information; Vacatur Rule” to the Office of Information and Regulatory Affairs (“OIRA”) of the Office of Management and Budget for review pursuant to Executive Order 12,866 (Sept. 30, 1993), where it remains pending; and

WHEREAS, the parties agree that a further stay of this matter is appropriate to permit OIRA to complete such review, and to evaluate the effect on this case of EPA’s subsequent regulatory action, and it is within the Court’s broad discretion to stay proceedings and defer judicial review, *see Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936);

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between parties, and the Court hereby ORDERS that:

1. All proceedings in this case, including the deadline to answer or otherwise respond to the complaint, are hereby stayed for an additional thirty (30) days from April 26, 2021, to May 26, 2021.

2. The parties are directed to submit a status letter within 30 days of the entry of this order outlining a proposal for how this matter will proceed.

3. The terms of this Stipulation and Consent Order shall become effective upon its entry by the Court. If the Stipulation and Consent Order is not approved and entered by the Court, it shall be null and void, with no force or effect.

4. This Stipulation and Consent Order may be signed in counterparts, each of which constitutes an original and all of which constitute one and the same document. Facsimiles and/or PDFs of signatures shall have the same force and effect as original signatures and constitute acceptable, binding signatures for purposes of the Stipulation and Consent Order.

Dated: New York, New York  
April 26, 2021

FOR THE STATE OF NEW YORK

LETITIA JAMES  
Attorney General

/s/ Gavin G. McCabe  
GAVIN G. McCABE  
Assistant Attorney General  
ASHLEY GREGOR  
Special Assistant Attorney General  
Environmental Protection Bureau  
28 Liberty Street, 19th Floor  
New York, NY 10005  
(212) 416-8479  
[gavin.mccabe@ag.ny.gov](mailto:gavin.mccabe@ag.ny.gov)

Dated: New York, New York  
April 26, 2021

AUDREY STRAUSS  
United States Attorney  
Southern District of New York  
*Attorney for Defendants*

By: s/ Anthony J. Sun<sup>2</sup>  
ANTHONY J. SUN  
Assistant United States Attorney  
86 Chambers St., 3rd Floor  
New York, New York 10007  
(212) 637-2810  
[anthony.sun@usdoj.gov](mailto:anthony.sun@usdoj.gov)

---

<sup>2</sup> Counsel for Defendants represents that the other parties listed in signature blocks on this stipulation and proposed order consent to this filing in accordance with S.D.N.Y. ECF Rule 8.5(b).

FOR THE STATE OF NEW JERSEY

GURBIR S. GREWAL  
Attorney General

/s/ Lisa J. Morelli  
LISA J. MORELLI\*  
ELSPETH FAIMAN HANS  
Deputy Attorneys General  
New Jersey Division of Law  
25 Market Street  
Trenton, NJ 08625  
(609) 376-2745  
[Lisa.Morelli@law.njoag.gov](mailto:Lisa.Morelli@law.njoag.gov)

FOR THE STATE OF CALIFORNIA

ROB BONTA  
Attorney General

ROBERT W. BYRNE  
EDWARD H. OCHOA  
Senior Assistant Attorneys General

/s/ David A. Zonana  
DAVID A. ZONANA  
SARAH MORRISON  
MYUNG J. PARK  
Supervising Deputy Attorneys General  
MEREDITH J. HANKINS  
COREY M. MOFFAT  
JONATHAN WIENER  
Deputy Attorneys General  
1515 Clay Street  
Oakland, CA 94612  
(510) 879-1248  
[David.Zonana@doj.ca.gov](mailto:David.Zonana@doj.ca.gov)

FOR THE STATE OF CONNECTICUT

WILLIAM TONG  
Attorney General

/s/ Jill Lacedonia  
JILL LACEDONIA  
Assistant Attorney General  
Office of the Attorney General  
165 Capitol Avenue  
Hartford, CT 06106  
(860) 808-5250  
[Jill.Lacedonia@ct.gov](mailto:Jill.Lacedonia@ct.gov)

FOR THE STATE OF DELAWARE

KATHLEEN JENNINGS  
Attorney General

/s/ Christian Douglas Wright  
CHRISTIAN DOUGLAS WRIGHT<sup>†</sup>  
Director, Impact Litigation  
VALERIE S. EDGE<sup>†</sup>  
Deputy Attorney Generals  
Delaware Department of Justice  
102 W. Water Street  
Dover, DE 19904  
(302) 257-3219  
[Christian.Wright@delaware.gov](mailto:Christian.Wright@delaware.gov)

FOR THE STATE OF ILLINOIS

KWAME RAOUL  
Attorney General

/s/ Daniel I. Rottenberg  
DANIEL I. ROTTENBERG<sup>†</sup>  
Assistant Attorney General  
MATTHEW J. DUNN  
Chief, Environmental Enforcement/Asbestos  
Litigation Division  
Office of the Attorney General  
69 W. Washington Street, 18th Floor  
Chicago, IL 60602  
(312) 814-3816  
[DRottenberg@atg.state.il.us](mailto:DRottenberg@atg.state.il.us)

FOR THE PEOPLE OF  
THE STATE OF MICHIGAN

DANA NESSEL  
Attorney General

/s/ Gillian E. Wener  
GILLIAN E. WENER  
Assistant Attorney General  
Michigan Department of Attorney General  
Environment, Natural Resources, &  
Agriculture Division  
525 W. Ottawa Street  
P.O. Box 30755  
Lansing, MI 48909  
(517) 335-7664  
[wenerg@michigan.gov](mailto:wenerg@michigan.gov)

FOR THE STATE OF MAINE

AARON M. FREY  
Attorney General

/s/ Jonathan Bolton  
JONATHAN BOLTON  
Assistant Attorney General  
6 State House Station  
Augusta, ME 04333  
(207) 626-8551  
[Jonathan.Bolton@maine.gov](mailto:Jonathan.Bolton@maine.gov)

FOR THE STATE OF MARYLAND

BRIAN E. FROSH  
Attorney General

/s/ Joshua M. Segal  
JOSHUA M. SEGAL\*  
Special Assistant Attorney General  
Office of the Attorney General  
200 St. Paul Place  
Baltimore, MD 21202  
(410) 576-6446  
[jsegal@oag.state.md.us](mailto:jsegal@oag.state.md.us)

FOR THE COMMONWEALTH  
OF MASSACHUSETTS

MAURA HEALEY  
Attorney General

/s/ Turner H. Smith  
TURNER H. SMITH\*  
Assistant Attorney General  
Environmental Protection Division  
Office of Attorney General Maura Healey  
One Ashburton Place  
Boston, MA 02108  
(617) 963-2782  
[turner.smith@mass.gov](mailto:turner.smith@mass.gov)

FOR THE STATE OF MINNESOTA

KEITH ELLISON  
Attorney General

/s/ Leigh K. Currie

LEIGH K. CURRIE<sup>†</sup>

Special Assistant Attorney General  
Minnesota Attorney General's Office  
445 Minnesota Street, Suite 900  
Saint Paul, MN 55101  
(651) 757-1291  
[leigh.currie@ag.state.mn.us](mailto:leigh.currie@ag.state.mn.us)

FOR THE STATE OF NEW MEXICO

HECTOR BALDERAS  
Attorney General of New Mexico

/s/ William Grantham

WILLIAM GRANTHAM\*

Assistant Attorney General  
201 Third Street NW, Suite 300  
Albuquerque, NM 87102  
(505) 717-3520  
[wgrantham@nmag.gov](mailto:wgrantham@nmag.gov)

FOR THE STATE OF OREGON

ELLEN F. ROSENBLUM  
Attorney General

/s/ Steve Novick

STEVE NOVICK<sup>†</sup>

PAUL GARRAHAN<sup>†</sup>

Special Assistant Attorney General  
Natural Resources Section  
Oregon Department of Justice  
1162 Court Street NE  
Salem, OR 97301  
(503) 947-4593  
[Paul.Garrahan@doj.state.or.us](mailto:Paul.Garrahan@doj.state.or.us)

FOR THE STATE OF NORTH CAROLINA

JOSHUA H. STEIN  
Attorney General  
DANIEL S. HIRSCHMAN  
Senior Deputy Attorney General

/s/ Taylor H. Crabtree

TAYLOR H. CRABTREE\*  
Assistant Attorney General  
North Carolina Department of Justice  
P.O. Box 629  
Raleigh, NC 27602  
(919) 716-6600  
[tcrabtree@ncdoj.gov](mailto:tcrabtree@ncdoj.gov)

FOR THE COMMONWEALTH  
OF PENNSYLVANIA

JOSH SHAPIRO  
Attorney General  
MICHAEL J. FISCHER  
Chief Deputy Attorney General

/s/ Aimee D. Thomson

AIMEE D. THOMSON  
Deputy Attorney General  
ANN JOHNSTON  
Senior Deputy Attorney General  
Impact Litigation Section  
Pennsylvania Office of Attorney General  
1600 Arch Street, Suite 300  
Philadelphia, PA 19103  
[athomson@attorneygeneral.gov](mailto:athomson@attorneygeneral.gov)

FOR THE STATE OF VERMONT

THOMAS J. DONOVAN, JR.  
Attorney General

/s/ Jill S. Abrams

JILL S. ABRAMS  
NICHOLAS F. PERSAMPIERI  
Assistant Attorneys General  
Office of the Attorney General  
109 State Street  
Montpelier, VT 05609  
(802) 828-3171  
[jill.abrams@vermont.gov](mailto:jill.abrams@vermont.gov)

FOR THE COUNTY OF KING,  
WASHINGTON

DANIEL T. SATTERBERG  
Prosecuting Attorney

/s/Jennifer Stacy

JENNIFER STACY\*  
Senior Deputy Prosecuting Attorney  
King County Courthouse  
516 Third Avenue, W400  
Seattle, WA 98104  
(206) 477-1167  
[Jennifer.Stacy@kingcounty.gov](mailto:Jennifer.Stacy@kingcounty.gov)

FOR THE STATE OF WASHINGTON

ROBERT W. FERGUSON  
Attorney General

/s/ Elizabeth Harris

ELIZABETH HARRIS  
Assistant Attorney General  
Washington Attorney General's Office  
Environmental Protection Division  
800 5th Avenue, Suite 2000 TB-14  
Seattle, WA 98104  
(206) 233-3391  
[Elizabeth.Harris@atg.wa.gov](mailto:Elizabeth.Harris@atg.wa.gov)

FOR THE STATE OF WISCONSIN

JOSHUA L. KAUL  
Attorney General

/s/ Bradley J. Motl

BRADLEY J. MOTL†  
Assistant Attorney General  
Wisconsin Department of Justice  
Post Office Box 7857  
Madison, WI 53707  
(608) 267-0505  
[motlbj@doj.state.wi.us](mailto:motlbj@doj.state.wi.us)



FOR THE CITY OF CHICAGO

CELIA MEZA  
Acting Corporation Counsel

/s/Bradley G. Wilson  
BRADLEY G. WILSON  
Assistant Corporation Counsel  
BENNA RUTH SOLOMON  
Deputy Corporation Counsel  
City of Chicago Department of Law  
2 N. LaSalle Street, Suite 580  
Chicago, IL 60602  
(312) 744-7764  
[Bradley.Wilson@cityofchicago.org](mailto:Bradley.Wilson@cityofchicago.org)

FOR THE CITY OF NEW YORK

JAMES E. JOHNSON  
Corporation Counsel

/s/ Hilary Meltzer  
HILARY MELTZER  
Chief, Environmental Law Division  
SHIVA PRAKASH  
Assistant Corporation Counsel  
Environmental Law Division  
New York City Law Department  
100 Church Street  
New York, NY 10007  
(212) 356-2319  
[shprakas@law.nyc.gov](mailto:shprakas@law.nyc.gov)

FOR THE CITY OF LOS ANGELES

MICHAEL N. FEUER  
Los Angeles City Attorney

/s/ Michael J. Bostrom  
MICHAEL J. BOSTROM<sup>†</sup>  
Managing Assistant City Attorney  
200 N. Spring Street, 14th Floor  
Los Angeles, CA 90012  
(213) 978-1867  
[michael.bostrom@lacity.org](mailto:michael.bostrom@lacity.org)

*\*Pro Hac Vice applications pending or to be submitted*

<sup>†</sup>Admitted *Pro Hac Vice*

SO ORDERED:

---

HONORABLE J. PAUL OETKEN  
UNITED STATES DISTRICT JUDGE

Dated: New York, New York  
\_\_\_\_\_, 2021